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**COMMISSION MEETING  
THURSDAY, JULY 12, 2001  
MINUTES**

**Chair Orr** called the meeting to order at 1:30 p.m., at the Howard Johnson Hotel in Everett. **Chair Orr** announced Director Bishop's retirement and invited the public to a farewell event at 6:30 p.m. at the Everett Yacht Club. **Chair Orr** announced that the Commission completed their Executive Search process and introduced Rick Day, who would be commencing his duties as Director on August 27th. He introduced the following attendees:

**MEMBERS PRESENT:**

**COMMISSIONER GEORGE ORR, CHAIR;  
COMMISSIONER CURTIS LUDWIG;  
COMMISSIONER LIZ McLAUGHLIN  
COMMISSIONER MARSHALL FORREST;  
SENATOR MARGARITA PRENTICE;  
SENATOR SHIRLEY WINSLEY;  
REPRESENTATIVE ALEX WOOD**

**OTHERS PRESENT:**

**BEN BISHOP, Director;  
ED FLEISHER, Deputy Director, Policy & Government Affairs;  
ROBERT BERG, Deputy Director, Operations;  
CALLY CASS-HEALY, Assistant Director, Field Operations;  
DERRY FRIES, Assistant Director, Licensing Operations;  
AMY PATJENS, Manager, Communications & Legal Dept.;  
JERRY ACKERMAN, Assistant Attorney General;  
SHIRLEY CORBETT, Executive Assistant**

**1. REVIEW OF AGENDA:**

**Amy Patjens**, Manager, Communications & Legal Department, noted there were no agenda changes. She reported that Mr. Fleisher would be announcing a fee increase, which would appear on the agenda next month. On Friday, Mr. Berg will provide a staff report on card room promotions, which relates to Agenda Item #4. Staff will ask that the petition to decrease the fees for limited fundraising events (Agenda item #3), be postponed until next month. It will then be combined with the other fees on the agenda.

Two new rules are up for discussion and possible filing. The first deals with raffles -- when nonprofit organizations want to have the same type of discount scheme or drawing that they had the year before, they may do so without having to get another approval from staff. The last rule addresses what happens when a card room closes for a certain period of time. She also directed the Commissioners to the materials behind Tab #5, a petition by the Recreational Gaming Association to increase the betting limits for card rooms, which will appear on the agenda next month for possible filing.

**2. NEW LICENSES, CHANGES, AND TRIBAL CERTIFICATIONS:**

**Commissioner McLaughlin** made a motion seconded by **Commissioner Ludwig** to approve the new licenses, changes and tribal certifications listed on pages 1 through 19 of the agenda packet under License Approvals. *Vote taken; the motion carried with four aye votes.*

**3. HOUSE-BANKED CARD ROOMS:**

**Jack Diddley's Inc., d/b/a/ King City Casino, Pasco:**

**Derry Fries**, Assistant Director, reported this organization has applied for a license to operate up to 10 tables of house-banked card games. Jack Diddley's Inc. was established as a corporation in June of 1991. He identified the corporate officers and reported that of the stock issued, the McClaskey Family LLC owns 70 percent of the stock, Loren Schademan owns 15 percent and Judy Schademan owns 15 percent. They have three other licenses; however, the actual corporation doesn't have another license location. Fred McClaskey of the McClaskey Family LLC is 100 percent stockholder in SPT Bar Inc., d/b/a Thunderbird Casino and Lounge, out of Yakima, Washington.

Special agents conducted a criminal and personal history background investigation on all substantial interest holders and initiated and completed a financial investigation on both the corporate and individual stockholders' finances to include their spouses. There was no disqualifying information found. Special agents also completed an onsite preoperational review (PORE) in accordance with the rules of the Commission. The applicant was found to be in compliance. Based upon the results of the licensing investigation and the preoperational review and evaluation, staff recommends that King City Casino be licensed to operate a house-banked enhanced card room authorized to conduct up to 10 tables with a maximum \$25 betting limit. He introduced Fred McClaskey.

**Fred McClaskey** thanked the Commission for the opportunity to represent the King City Casino. He reported the property has been in his family for 11 years and they thought it would be a good location for a casino. They built the casino from the ground up and the family is very proud of the establishment.

**Commissioner Ludwig** agreed with Mr. McClaskey that it is a particularly good location for his business and for the community. It's not located near anything that would present a distraction to schools, or where children or families reside. **Mr. McClaskey** affirmed that it's an ideal location. He said they would be opening tomorrow at 11:00 a.m. if approved today. Mr. McClaskey thanked Special Agents Leanne Leroux and Silvia Reyes for the fine work they did working with their employees. He noted Commission agents are very cooperative, but they are tough.

**Commissioner Ludwig** made a motion seconded by **Commissioner McLaughlin** to approve licensure for King City Casino in Pasco to operate a house-banked enhanced card room with a maximum of \$25 betting limit. *Vote taken; motion passed with four aye votes.*

**Jasper's Holdings Inc. d/b/a Christo's, Bellingham:**

**Derry Fries**, Assistant Director, reported this organization has applied for a license to operate up to seven tables. This organization was established as a corporation in April 1997. It is wholly owned by one shareholder, Jaskarn Gill. The applicant currently operates another house-banked card room, the Slo-Pitch Pub and Eatery in Bellingham, with eight tables. Special agents conducted a criminal and personal history background investigation of all substantial interest holders and initiated and completed a financial investigation on both the corporate and individual stockholder finances to include his spouse. No disqualifying information was found. Special agents also completed an onsite preoperational review and evaluation in accordance with the rules of the Commission. The applicant was found to be in compliance. Based upon the results of the licensing investigation, staff recommends Christo's be licensed to operate a house-banked enhanced card room licensed to operate up to seven tables with a maximum \$25 betting limit. He introduced Jaskarn Gill, CEO; Jamie Hollman, General Manager, and Wendy Anderson, Casino Manager.

**Commissioner Ludwig** was curious to know what the operating hours were at the Slo-Pitch Pub and Eatery. **Ms. Hollman's** reply was 11:00 a.m. to 7:00 a.m. Commissioner Ludwig asked whether the new business is anticipating operating under more traditional hours, for example from noon to 2:00 a.m. **Mr. Gill** affirmed and said their other establishment is open 24 hours, so they could fluctuate the hours. **Commissioner McLaughlin** asked if the restaurant was open 24 hours. Mr. Gill replied that in this facility, the restaurant would close as well.

**Commissioner Forrest** made a motion seconded by **Commissioner Ludwig** to approve licensure for Christo's in Bellingham to operate a house-banked enhanced card room with a maximum \$25 betting limit. *Vote taken; motion passed with four aye votes.*

**Classic Casino & Bistro, Chehalis:**

**Derry Fries**, Assistant Director, reported this organization has applied for a license to operate up to five tables of house-banked card games at the Classic Casino & Bistro. M&R EuroImport, Ltd. was established as a corporation in Washington on July 25, 1991. The corporation is authorized to issue 500,000 shares of stock, of which 500 shares have been issued to Michael and Renee Rey, the president and treasurer of the corporation. They presently have a punchboard and pull-tab Class A license and they have a Class E public card room license. Special Agents conducted a criminal and personal background investigation on all substantial interest holders and initiated and completed a financial investigation on both the corporate and individual stockholder finances. There was no disqualifying information found. Special agents also completed an onsite preoperational review and evaluation in accordance with the rules of the Commission.

The applicant was found to be in compliance. Based on the results of the licensing investigation and the PORE, staff recommended the Classic Casino & Bistro be licensed to operate a house-banked enhanced card room with up to five tables and a maximum \$25 betting limit. Mr. Fries introduced Michel Rey.

**Commissioner Ludwig** asked if there were any other house-banked rooms in Chehalis. **Mr. Rey** said there were none. **Commissioner McLaughlin** asked what the corporate name stood for. Mr. Rey said it used to be an import/export corporation.

**Commissioner McLaughlin** made a motion seconded by **Commissioner Ludwig** authorizing the Classic Casino & Bistro to be licensed to operate a house-banked enhanced card room with a maximum \$25 betting limit. *Vote taken; the motion passed with four aye votes.*

**Cleopatra's Wild Grizzly Casino LLC; Kelso:**

**Derry Fries**, Assistant Director, reported this organization applied for a license to operate up to 12 tables of house-banked card games in Kelso. This organization was originally formed in Nevada and began doing business in Washington on March 9, 2001. Eric Nelson is the sole member and manager of 100 percent of the membership shares. The LLC is currently licensed for three other locations of house-banked card games: Cleopatra's Club Casino Kennewick, with 10 tables, Cleopatra's Wild Goose Casino Ellensburg with 10 tables and Cleopatra's Cable Ridge Casino Kennewick with 13 tables. Special agents conducted a criminal and personal history background information on all substantial interest holders and initiated and completed a financial investigation on the company, Mr. Nelson, and his spouse. No disqualifying information was found. Special agents also conducted an onsite preoperational review and evaluation in accordance with the rules of the Commission. The applicant was found to be in compliance. Based on the results of the licensing investigation and preoperational review and evaluation, staff recommended Cleopatra's Wild Grizzly Casino be approved as a house-banked enhanced card room authorized to operate up to 12 tables with a maximum \$25 betting limit. Mr. Fries introduced Eric Nelson.

**Chair Orr** observed that some organizations don't operate the full 15 tables and asked if there was a reason for that. **Mr. Fries** answered that it is largely a marketing issue—whatever the market will bear—a market study is done of the area before a facility makes that decision. Eastern Washington normally has five to eight tables.

**Senator Winsley** observed this would be the company's fourth establishment. **Mr. Fries** affirmed. Senator Winsley asked if there were any other businesses that have four or more operations. Mr. Fries affirmed and identified the Silver Dollar group and Freddie's. Senator Winsley expressed concern on the time frame—so many being established from March to August. **Commissioner Ludwig** explained that they bought out one casino in Kennewick and then opened up a second one in that area. Senator Winsley asked if it was unusual for a company to be formed in Nevada in one month and come to Washington and be in business three weeks later. Mr. Fries explained they have to register in the state of Washington at the Secretary of State's Office, but it's not unusual.

**Chair Orr** was curious about all the names Mr. Nelson was using for his establishments. **Mr. Nelson** said the names are important, but the real name is Casino and depending upon where the area is, they go with the area theme. In the end, it comes down to customer service and good food and entertainment. **Commissioner Ludwig** noted the name of the limited liability company is listed as Cleopatra's Wild Grizzly Casino LLC and actually this name is attached to the fourth card room. **Mr. Nelson** responded that it is a corporate structure. Cleopatra Gaming Management is the parent company, and each individual club is a separate LLC, so there are individual names. **Representative Wood** asked if there were plans for more establishments. Mr. Nelson affirmed. Commissioner Ludwig said he is familiar with the

Cleopatra's Cable Bridge and Cleopatra's Club in Kennewick, and both of them appear to be very sound, well-run businesses and in locations that aren't adverse to community interests.

**Commissioner Ludwig** made a motion seconded by **Commissioner McLaughlin** to approve licensure of Cleopatra's Wild Grizzly Casino in Kelso, to operate a house-banked enhanced card room with a maximum \$25 betting limit.

**Commissioner Forrest** commented that he understood that under existing rules, multiple ownerships are legitimate. He noted that the Legislature is looking at the entire pattern of gambling and that they are generally not in favor of multiple

ownerships. He stated that in the past, casinos have been single operations, but when 50-60 operations throughout the state are concentrated in one owner, it reminds him of chain restaurants. He personally did not favor this concept. He suggested the Legislature take a look at this when they review the gambling industry. **Senator Winsley** responded that they are already looking at this. She believed a lot of legislators have the same opinion and some are worried.

**Commissioner Ludwig** reminded everyone that he voted no when Freddie's opened their second facility. He noted he continued to vote no on multiple operations for about two years. He noted that the Legislature never acted during that period of time, the permanent rules were adopted, and they never restricted the number of ownerships that one person or one corporation could have. Accordingly, he has made the motions in favor of these facilities over the last couple of months or so because he believed that if the policy is not to restrict, then he is not going to keep talking about restricting it. He emphasized that the Legislature has had time to do something about the situation, and the ex officio members have been at the meetings. **Commissioner McLaughlin** inquired how preventing someone from having multiple ownerships would stand up in court – especially if someone can afford it, does a good job, and the cities want the facility. **Chair Orr** said he thought that issue was outside of the Commission's area of responsibility and the Legislature should deal with it.

**Senator Prentice** affirmed she had listened to this argument and was around when Freddie's Club received their second card room license. She remembered this same discussion of standing in the way of someone who has followed all the rules, and looks clean. She noted that if the intent is to keep gambling regulated very tightly, the Legislature would act if they saw any adverse results. In their hearts, they may not like someone cornering the market. However, any place that has multiple locations, if they can do the job, keep it clean, keep it honest, and are fair to the customers, the business will appeal to the customers, even though others may not personally like it, or it may not appeal to some individuals.

There were no other comments. Vote taken; motion passed with four aye votes. **Chair Orr** hoped that the current legislators wouldn't take issue if the Commissioners take issue with them. He asked that the ex officios take the Commission's message back to the Legislature -- this is a big issue, and it's frustrating to be chastised after the fact. He emphasized the Commission has always welcomed the ex officios input.

## 5. **PHASE II REVIEWS:**

### **Club Broadway Entertainment Center, Everett:**

**Mark Harris**, Supervisor from the Lynnwood Office, reported that Club Broadway Entertainment Center is a commercial restaurant, lounge, off-track betting facility, and house-banked card room located in Everett. The business is incorporated and owned by Allen Hemmat. In addition to Club Broadway, he also owns the Village Restaurant in Marysville. This organization began conducting house-banked gaming activities in February 2001. They currently operate 12 gaming tables including Let It Ride, Fortune Pai Gow, Spanish 21, Royal Match, Three-Card Poker, Match-the-Dealer Blackjack, and Blackjack. Staff conducted a comprehensive investigation including review and observation of the key operating departments. Review teams compared the licensee's actual operating procedures to those documented in their internal controls and card room rules. The licensee's written internal controls were compared to the card room rules to ensure compliance and consistence. A review was conducted of the organization's gaming and organizational records to ensure record keeping compliance. During the review there were no hidden ownership or unreported third party financing detected. The City of Everett was contacted to verify the licensee was current on all gambling taxes, and the Everett Police Department was contacted to verify there were no adverse impacts. All violations noted during the review were verified and corrected during follow-up inspections. Staff recommends Club Broadway be approved for Phase II wagering limits. Agent Harris introduced Mr. Hemmat. **Allen Hemmat** welcomed everyone to Everett.

**Commissioner McLaughlin** made a motion seconded by **Commissioner Ludwig** to approve Club Broadway Entertainment Center located in Everett, to operate at Phase II wagering limits. *Vote taken; motion passed with four aye votes.*

**Mr. Hemmat** commented that he has been licensed in the state of Washington for the past 25 years. He commented that he has worked with the different agencies in this state over the years and how impressed he was during the financial review procedures. He specifically mentioned the work of agents Kevin Revoir, Claudia Biermann, and Steve Steiner. He indicated that every time he had a problem, either Kevin or Claudia were always there to help. He congratulated Director Bishop for creating a staff that is respectful. He noted that if he had known six months ago what he knows now,

he would not have applied for a casino license -- during the last six months he has lost \$40,000 a month. He is hoping that the \$100 betting limit will improve business.

**Cascade Lanes, Renton:**

**Mark Harris** reported that Hughes Enterprises Incorporated, is owned 51 percent by John Spitz and 49 percent by Janice Glomba-Spitz. The owners hold no interest in any other card room in the state. Cascade Lanes began conducting house-banked activities in February 2001. They are currently operating five house-banked tables, including Spanish 21, Fortune Pai Gow and Lucky Lady. Staff conducted a comprehensive investigation and no hidden ownership or undisclosed third party loans were detected. King County was contacted to verify the licensee was current on all gambling taxes and the King County Sheriff's Office was contacted to verify there were no adverse impacts on the community. All violations noted during the review were verified as corrected during follow-up inspections. Staff recommended that Cascade Lanes be approved for Phase II wagering limits.

**Jack Spitz** introduced himself and Ray Benson. **Commissioner Ludwig** noted there was only one violation, which was corrected; he asked if the Commission has ever had a Phase II review that was this good before today. **Mr. Harris** responded that this was probably the exception to the rule. Commissioner Ludwig thanked and congratulated Mr. Spitz and Mr. Benson. **Senator Prentice** said she knew these gentlemen well because they are from her area, and noted what a good job they had done. She believed this particular facility provided the kind of stimulation for people to have a reason to go the business, which is in keeping with what most believe is the intent of the card rooms.

**Commissioner Ludwig made a motion seconded by Commissioner Forrest to approve Cascade Lanes located in Renton, to operate at Phase II wagering limits. Vote taken; motion passed with four aye votes.**

**Six Card Charlie's, Tacoma:**

**Mark Harris** reported that Six Card Charlie's is a commercial tavern, lounge, and card room located in Spanaway. The organization is owned equally by **Dan Robinson** and **Joseph Baseel**. They do not own an interest in any other card rooms in Washington. They began conducting house-banked gambling activities in July 1999. They are currently operating five house-banked tables, including Blackjack, Pai Gow Poker, and one Red Dog. Staff conducted a comprehensive investigation and during the review, no hidden ownership or unreported third party financing existed. Pierce County Finance Department was contacted to verify the licensee was current on all gambling taxes, and the Pierce County Sheriff's Department was contacted to verify there were no adverse impacts of the card room on the community. All violations noted during the review were verified as corrected during follow-up inspections. Staff recommends Six Card Charlie's be approved for Phase II wagering limits. **Joseph Baseel** and **Dan Robinson** introduced themselves. Dan Robinson noted that Special Agents Lisa Saila and Stephanie Bussell did a tremendous job.

**Commissioner Ludwig made a motion seconded by Commissioner Forrest to approve Six Card Charlie's located in Spanaway, to operate at Phase II wagering limits.**

Commissioner McLaughlin asked about the name "Six Card Charlie's." **Mr. Baseel** said it comes from the fact that if one of their customers gets a sixth card totaling 21 or less, it's an automatic winner and they get paid on the spot. It's called a "six-card Charlie." *Vote taken; motion passed with four aye votes.*

**Thunderbird Casino & Lounge, Yakima:**

**Mark Harris** reported that the Thunderbird Casino & Lounge is a commercial restaurant, lounge, and card room located in Yakima, Washington. The organization is owned by Fred McClaskey, Jr. They are currently licensed for 10 tables including Lucky Lady, Spanish 21, Let It Ride, Fortune Pai Gow and two Poker tables collecting a rake. Staff conducted a comprehensive investigation and there were no indications of hidden ownership or unreported third party financing. The City of Yakima was contacted to verify the licensee was current on all gambling taxes and the Yakima Police Department was contacted to verify there had been no adverse impacts of the card room on the community. All violations noted during the review were verified as corrected during follow up inspections. Staff recommends that the Thunderbird Casino and Lounge be approved for Phase II wagering limits.

**Fred McClaskey** introduced General Manager, Gary Kronkite, who said he went through a three-day audit with the Gambling Commission. He reported that Special Agent Brian Lane was very helpful in showing them if they had a problem, where it was, and how to fix it. He also acknowledged assistance from Leanne Leroux and Michelle Templin.

Commissioner Ludwig made a motion seconded by Commissioner McLaughlin to approve Thunderbird Casino & Lounge located in Yakima, to operate at Phase II wagering limits of \$100.

Commissioner McLaughlin asked what the difference was between violations with a verbal warning and violations with a warning letter. Mark Harris explained that verbal warnings are for minor infractions investigators see routinely. The warning letter is a higher level violation and involves a written warning citing the WAC rule. Vote taken; motion passed with four aye votes.

**Chair Orr** called for a recess at 2:35 p.m., and reconvened the meeting at 2:55 p.m.

**6. Staff Report - Legislative Update:**

**Ed Fleisher**, Deputy Director announced there was nothing new to report on the special legislative session because gambling issues were not discussed. He noted the deadline for submitting agency request legislation to the Governor's Office is September 17<sup>th</sup>. Staff has one proposal regarding a housekeeping bill to fix the agency's authority to have access to background checks. Currently, there are no plans to recommend any other agency request legislation for the 2002 Session.

**Mr. Fleisher** reported that staff wanted to inform the Commission that staff has been analyzing the budget and will be coming forward with a proposal for a fee increase effective January 1, 2002. He distributed some charts dealing with the agency's fund balance and advised further data and discussion would be conducted in September. He reminded everyone that the Washington State Gambling Commission is a non-appropriated agency responsible for its spending and revenue. As that type of an agency, he emphasized that one of the priorities is to assure that the fund balance remains healthy enough to deal with the variations in expenditure and revenues. Mr. Fleisher affirmed the goal has been to keep a reserve fund balance of three to six months of revenues. Referring to the chart, he pointed out that is what the two blue lines represent. Because of the limitations imposed by Initiative 601, this agency is prohibited from increasing fees more than the fiscal growth factor, which is a number calculated by OFM, and is a combination of inflation and population growth. For the current year, that fiscal growth factor is 2.79 percent. He noted the Commission's fund balance had been above the six-month line, and staff was trying to bring it down into the target range. Because of 601, staff must be sure that it drops, but not allow it to drop so fast that it can't be brought up again because of the limitation on fee increases. It has been two years since the last fee increase. Mr. Fleisher noted that expenses have gone up, particularly driven by two salary increases that the Legislature granted on July 1, 2000, and July 1, 2001. Referring again to the chart, he addressed the black dotted line, noting that it shows an estimated fund balance without a fee increase. The solid black line is staff's estimate of the change in the fund balance based on a 2.79 increase. Staff will continue to monitor both the expenditures and revenues over the next year, and if that line continues to drop fairly steeply, staff will probably be required to return for future increases as well.

Mr. Fleisher explained the second chart shows fee increases in January 1, 2002 and January 1, 2003. Staff's recommendations will depend on whether the revenues come in as projected. This chart is based on expenditures at the 100 percent of budgeted level. Over the last few years, the Commission has spent approximately 95 percent of the budgeted level. If that practice continues, then the fund balance will not drop as much as shown on the chart. Mr. Fries distributed the current fee structure for the charitable and the commercial operations.

**Commissioner McLaughlin** asked if it would be possible for staff to prepare two scenarios: the first would be a fee increase just for the commercial operators and leaving the nonprofits alone at this time; and a second scenario having fee increases for both. **Chair Orr** concurred. **Mr. Fleisher** affirmed that staff would come forward next month with two proposals; what the fees would be and how it would affect the Commission's revenue and expenditure model with the alternatives. He noted the rule would be up for possible filing next month, and final adoption would not take place until November, which provided plenty of time to look at various options.

**Commissioner Forrest** asked to what extent and how close staff tried to break the figures down by various categories; for example, do they know that the money raised from any particular category of fees relates to the cost of those particular services? **Mr. Fleisher** responded that staff keeps a rough eye on that; however, with the restrictions of I-601, we can raise less than the limit, but we can't raise more. Commissioner Forrest said his other question pertained to the

Legislature's review of the gambling policy and procedures and legislation. He asked if staff would be monitoring the hearings to get a flavor of what is going on, so that when the Commissioners are asked for their respective opinions on likely legislation, they are prepared to respond. He felt that if the Commission was going to have a say on anything significant in the way of changes to the gambling rules, the more lead time, the better, so that staff could share any pertinent information to help the Commissioners make decisions. Mr. Fleisher responded that he and Ms. Patjens keep in contact with both the House and the Senate Committee staff and are following the round table meetings -- specifically, on SB 6193, that would expand gambling on the commercial side. He affirmed that staff is studying the impacts the legislation may require regarding the day-to-day operation of the agency. Although a formal request for a fiscal note has not been received, the agency is doing an internal analysis so we will be ready to present the fiscal impacts on the agency. Regarding the bigger policy questions that are raised particularly by that piece of legislation, Mr. Fleisher affirmed that the Senate Committee would like to have any of the members of the Gambling Commission attend and present their views.

#### **Staff Report - Change to Fingerprinting Licensing Authority:**

**Robert Berg**, Deputy Director, explained that the Gambling Commission in its law enforcement role, conducts background investigations in order to license individuals. In the course of doing the background checks, the Commission relies on computer checks and checks with police departments. Ultimately, the agency relies on fingerprint checks, which are completed by the Washington State Patrol and the Federal Bureau of Investigation. Over the past biennium, approximately \$500,000 has been spent on this endeavor. These background checks are conducted on new licensees and on a continuing intermittent basis with existing licensees. Criminal history is one of several important factors used in determining an applicant's suitability for licensure. The authority to conduct those investigations is provided in RCW 9A.06.075. During the past year, the U. S. Department of Justice, specifically the FBI in their criminal justice information services access integrity unit, conducted a review of state statutes pursuant to Public Law 92-544. That law was passed in response to a Supreme Court decision which talked about the limitations of the disclosure of criminal history based on fingerprint checks and other criminal history searches for licensing purposes. Congress passed a law in response to that Supreme Court Decision P.L. 92-544. An audit was conducted by the FBI pursuant to that statute, and the law does authorize release of criminal history record information to officials of state and local governments for employment and licensing purposes only when specifically authorized by the state's statute to do so. The results of that audit were communicated to the State Patrol last May. The State Patrol is the local conduit for information and technical assistance from the FBI and is also the focal point for control of information to and from the FBI in the state of Washington. In fact all of the fingerprints submitted to the FBI are facilitated through the State Patrol.

The FBI's review of the state's gambling statutes found that the language as it currently exists does not conform to two of the criteria that are set forth in that public law. The first criterion is that the statute does not require fingerprinting of applicants who are subject to a national criminal history background checks. The statute specifically says "may." The second issue is that the statute does not expressly state, or by implication, authorize the use of the FBI and their records system for the screening of these applicants. It just says the agency may conduct such checks. Throughout the Gambling Commission's existence, staff has utilized fingerprints to do national criminal history checks and information records checks for information on agency licensees. During the last two fiscal years, over 4,000 submissions of fingerprint cards have been sent to the State Patrol and the FBI.

The amendment that is before the Commission would provide the statutory mandate that is required under the Federal Public Law 92-544, allowing the agency to continue to utilize fingerprints and a national criminal history check in making determinations as to eligibility for licensure. The FBI has given the Gambling Commission a grace period until May 2002 to come into compliance. Until that time, they will continue to honor the Commission's request for criminal history record information. Should no change be made to the statute during the next legislative session, the ability of the Commission to submit fingerprint checks to the FBI will be discontinued. **Mr. Berg** noted the Gambling Commission is not the only state agency that finds itself in such difficulty. The Washington State Department of Licensing, specifically the security armed-guard program, the Washington State Horse Racing Commission and the Washington State Liquor Control Board also find themselves in the same difficulty. Their statutes that authorize this work do not comport with the congressional law under which the FBI operates.

In meetings with Mr. Ackerman, staff determined they would like to propose a specific fix for the agency. There are two ways to look at: 1) a technical fix; 2) an omnibus approach where staff could try to bring everyone to the table and provide a fix for the various RCWs that are involved. Since we report to a Commission, staff's decision was to fix the

agency's problems and should the Governor's Office or the Legislature choose to combine them with fixes that other agencies are working on, that would be their call. **Mr. Berg** reported that agency staff has drafted some language, they called the FBI, and the FBI accepted a facsimile of the proposed language. The FBI called back and said that the proposed language would work. They also sent a letter indicating that should the statute be drafted in the manner in which it's proposed, it would comport with the federal law that controls their activity. He shared an affirmative letter from the FBI regarding the language, as proposed. He pointed out that the language contains the words "we shall. . . ." and it also says it will be submitted to the United States Department of Justice, Federal Bureau of Investigation for this check, and that it comports with their requirements. He noted that this would require some rulemaking, but there is no fiscal impact because it will allow the Commission to continue to do what the agency has always done. The agency has low-level licensees that have had criminal history collected on them. Because the RCW must comport with the federal law, the Commission can then grant exceptions in the WAC rulemaking process. Normally, they have done this by policy, so there would be some minor rulemaking. Mr. Berg advised the rulemaking is a technical amendment and staff would like to get the Commission, once the commissioners are comfortable with the issue, to authorize staff's submission of the package to the Governor's Office for consideration in the next legislative session.

**Commissioner Ludwig** said he was comfortable with the proposed language and Mr. Berg's recommendation, but he was curious if the background checks cost the licensees anything. **Mr. Berg** replied that it was factored into the licensing fees the agency charges, which is why some of the lowest level operators are charged a nominal licensure fee. Staff's main concern was if they mandated something across the board, even greater costs would be incurred and those would have to be passed on as a new cost to all licensees wherein staff have not for years checked every licensee depending on the level that they operate. **Mr. Fleisher** added that he and Ms. Patjens had a meeting with the Governor's legislative liaison on a number of issues, and he strongly agreed that the agency ought to introduce a standalone fix. According to the FBI letter, there are nine Washington State statutes that need to be fixed. Staff also addressed the possibility of preparing an omnibus bill that would fix all nine statutes.

**Commissioner Ludwig** made a motion seconded by **Commissioner McLaughlin** to direct staff to proceed with the proposed legislative request as submitted in the agenda packet as Attachment A with the language recommended. **Commissioner Ludwig** asked if it would have any financial impact on the licensees over and above what they have now. **Mr. Berg** responded that there would be no impact other than there would be some staff time drafting the rulemaking changes. *Vote taken; motion carried with four ayes.*

#### **Staff Report - Tribal Gaming Unit - Changes to the Approach in Regulatory Philosophy:**

**Cally Cass-Healy**, Assistant Director of Field Operations, said the purpose of her report is to discuss the new regulatory approach to tribal gaming in Washington. She said that for the past year Commission staff have been revisiting its regulatory role with compacted tribes operating casinos in the state of Washington. This has been the first fundamental analysis of a regulatory relationship with tribal gaming agencies since the tribes began entering into compacts in 1992. Over the last eight years, the state, the agency's Tribal Gaming Unit and the TGAs have gained a considerable amount of experience. The analysis resulted in a change in the agency regulatory approach. TGU staff, working on its regulatory relationship with the TGAs, developed the regulatory approach, which recognizes that the TGA is the primary regulator. The agency's TGU staff partners with the TGAs and provides assistance to those that are effective regulators and provides guidance and direction for those who are not. Staff's focus is on assuring compact compliance as a means of protecting the public, consistent with the state's public policy on gambling.

TGU works through and with the TGAs to verify compact compliance by conducting periodic assessments of each tribal casino's regulatory program, reviewing TGA's regulatory efforts, and checking their work product to make sure they are well focused and getting results, and conducting independent audit overviews of the gaming activities and operations on a periodic basis to assess the effectiveness of regulatory efforts by each specific TGA. Based on those observations, they then provide training tailored to the individual needs of each regulatory program or TGA. Staff tested the new approach with the Jamestown Tribe, and are happy to report they learned many lessons on both sides and feel comfortable with the results. Staff is currently working on an MOU with the Jamestown Tribe to address the new approach and some billing issues. Staff is ready to implement the next stage and will be working with each individual tribe over the next year to assess their regulatory programs and to develop individual programs that recognize the new approach.

**Commissioner Forrest** asked what's going to happen that's different than what's been happening. **Ms. Cass-Healy**



sited an example of a draft implementation plan that staff created along with the process while they were working with the Jamestown S'Klallam tribe. An actual program to assess the regulatory program itself was developed. For example, questions like, what kind of checklists are they performing? How often do they perform them? How well trained are their staff -- what is their focus and how well are their internal controls are being followed? Once Commission staff assess how adequately these are being performed, staff can determine how they can best assist them in performing those duties. Commissioner Forrest asked if it would mean less agent time working with them, or if different things were going to be done. Commissioner Forrest asked if this rule would treat everyone alike, or would it reflect the fact that presumably some tribes can do their jobs more efficiently and more in compliance with the Compact than others? Ms. Cass-Healy replied that staff is hoping it will take less staff time by relying more on the tribal gaming agencies themselves. However, they recognize that each one is different—some have stronger programs, some have larger hurdles to overcome within their tribal environments, and the agency will still have a role in making sure that they are complying with the Compact. Ideally, they will perform the day-to-day regulation; staff will do some independent checks, but staff will also do some limited scope reviews—they will do much more training and upfront education to help them learn how to regulate the casinos much more effectively. **Director Bishop** said this was an excellent way of leveraging the agency's assets by teaching the tribes and they can both, then, have a better program. This allows the agency to get the best results. **Mr. Berg** complimented the TGU staff, noting they worked hard to come up with a new approach to an existing philosophy.

**Jon McCoy**, Director of Governmental Affairs for the Tulalip Tribes, reported that it is fairly well recognized that the tribes and the state have been working well together. This new philosophy is welcomed; however, he wished the state of Washington would be more proactive when they see the type of legislation that was introduced by Congressman Wolf to the U.S. Congress. Congressman Wolf is sending a message that the Commission is not able to regulate the tribes and that the state doesn't have a cooperative arrangement with them. He hoped that when legislation that is derogatory in nature comes forward, that the WSGC would at least submit a letter in support of tribal operations. **Commissioner McLaughlin** said she was not aware of the legislation being addressed. Mr. McCoy said the bill was dropped and referred to Natural Resources. It is not anticipated that it will be heard this year, but they will have to remain watchful because it could come up again in the future. Mr. McCoy explained that Congressman Wolf feels that tribal gaming has been corrupted by criminal activity. Congressman Wolf is from the northern part of the state of Virginia where there are no tribes or casinos. In addition to the criminal activity, the Congressman believes that tribal gaming is not benefiting the tribes in their economic efforts. He hoped that the agency would step up and say something to help the tribes fight that type of comment. **Commissioner Ludwig** suggested they invite him to come to Washington State and Mr. McCoy affirmed that he had already been invited, but refused. Commissioner McLaughlin thought perhaps he might come if the Commission or one of the Washington State congressmen extended the invitation. **Senator Prentice** said she saw all the assertions, and knows that it doesn't apply in Washington State. She noted there are some individuals in Congress who make their careers bashing tribes and they are usually from a state that doesn't have tribes and are speaking from ignorance. She agreed that the legislation isn't going anywhere, but suggested Congressman Wolf be invited by one of the state's senators. She agreed it's an issue that deserves watching. **Mr. Fleisher** reported the Congressman's office mailed a packet of materials to every gambling agency in the country, and that he would provide the Commission copies for the next meeting. The Commission could possibly propose a letter regarding the issue to the effect that the Commission feels they have good regulation of Indian gaming in this state both from the state and the tribal level. **Chair Orr** suggested that Congressman Ensley had a handle on these things and he might be an asset. **Commissioner McLaughlin** said Congressman Rick Larson is also on top of the issue of Indian Government. **Chair Orr** thanked Mr. McCoy for his input and said he thought they all had a network that could respond to Congressman Wolf.

**Gerry Koegel**, Director of Gaming, Swinomish Tribe, thanked Director Bishop, the TGU staff, and especially Mr. Berg for bringing about the new regulatory program. He said he works with the TGU staff directly, and the Tribe welcomes the new program. He said their working relationship with the state is probably better now than it has ever been. It's a cooperative thing, they've come a long way together and they welcome this opportunity. **Senator Prentice** noted this is an industry that is highly regulated and one can adopt a mindset where you either feel that the inspector, surveyor or regulator is your adversary and they're just there to pick on you, or you can also say, okay, they're here to help us make things better and so we'll work together. She noted it's very obvious that the gambling industry in this state has taken the attitude—they're here to help us and that's a mutual thing -- we respect each other and we'll tell you what to do. The more you pay attention, the more likely they are to be helpful. That's how it works. She said the industry could pat themselves on the back, too. She agreed it is heartwarming to hear compliments about the staff, but it's because everyone is receptive and that's why this is an agency whose work they can all be proud of.

**9. Other Business/General Discussion/Comments from the Public:**

**Chair Orr** called for comments from the public. There were none. **Commissioner Forrest** commented that he had been on the Commission for about four years and they had never taken a look at firearms policy. With that in mind, he made the following motion to begin the process of studying it.

**Commissioner Forrest** made a motion seconded by **Commissioner McLaughlin** to direct staff to prepare a comprehensive review of the agency firearms policies and present it to the Commission as soon as reasonably feasible. Among the matters to be addressed are the following:

- 1) The statutory basis, any relevant Commission rules, any written internal policies, or any unwritten policies or practices.
- 2) For the last ten years: a list of all incidents where a firearm was discharged in the line of duty (training excluded), where a firearm was drawn or displayed, any examples where an agent would have been intimidated, reluctant, or unwilling to perform his/her duties unless armed.
- 3) A representative sample of the policy in other comparable states.
- 4) An estimate of the expense of original training and any required follow-up.
- 5) Any policy considerations the Commission should have in mind in reviewing our current handling of firearms.

**Commissioner Forrest** added that the occasion is appropriate. He recalled that Mr. Berg is working on a proposal to revise the training procedures for the agents, of which, firearm training is an important part. The agency has a new executive director taking over and both he and Chair Orr have never dealt with this. In any event, it is new to the two of them and with that in mind, he thought this is an appropriate time to take a look and see whether the Commission is satisfied with status quo, whether they think there should be any changes, and, in general, to make sure that the firearm policy is one that this Commission approves of because it is obviously a significant responsibility of the Commission. He emphasized that the policy is the Commission's responsibility even though they have never looked at it previously. He hoped his fellow commissioners would support a chance to take a look at this.

**Chair Orr** said there is a saying in his industry that "failing to plan is planning to fail." He said it is important for the Commissioners to know what the plan is and to be abreast of what is going on. **Senator Prentice** voiced her agreement. *Vote taken; motion passed unanimously.*

**10. Executive Session to Discuss Pending Investigations, Tribal Negotiations and Litigation:**

**Chair Orr** called for an executive session at 3:45 p.m. and announced that no further business would be conducted.

**11. ADJOURNMENT:**

At 4:45 p.m. **Chair Orr** reconvened the meeting and declared the meeting adjourned until 9:30 a.m., August 10, 2001.

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**COMMISSION MEETING  
FRIDAY, AUGUST 10, 2001  
MINUTES**

**Chair Orr** called the meeting to order on Friday, August 10, 2001, at 9:30 a.m., at the Howard Johnson Hotel in Everett. The following were present:

**MEMBERS PRESENT:**

**COMMISSIONER GEORGE ORR, Chair;**  
**COMMISSIONER CURTIS LUDWIG;**  
**COMMISSIONER LIZ McLAUGHLIN;**  
**COMMISSIONER MARSHALL FORREST;**  
**COMMISSIONER ALAN PARKER;**  
**SENATOR MARGARITA PRENTICE;**  
**REPRESENTATIVE ALEX WOOD;**

**OTHERS PRESENT:**

**BEN BISHOP, Director;**  
**ED FLEISHER, Deputy Director, Policy & Government Affairs;**  
**CALLY CASS-HEALY, Assistant Director, Field Operations;**  
**DERRY FRIES, Assistant Director, Licensing Operations;**  
**AMY PATJENS, Manager, Communications & Legal Dept.;**  
**JERRY ACKERMAN, Assistant Attorney General;**  
**SHIRLEY CORBETT, Executive Assistant**

**1. MINUTES – June 25, July 11-13, and July 23, 2001:**

Commissioner McLaughlin made a motion seconded by Commissioner Forrest to approve the Special and Regular Meetings on June 25<sup>th</sup>, July 11<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup>, and 23<sup>rd</sup> of 2001 as presented. *Vote taken; motion carried unanimously.*

**2. STAFF REPORT – GAMBLING PROMOTIONS & PROMOTIONAL CONTESTS:**

**Mr. Berg**, Deputy Director, addressed the supplementary information consisting of a 10-page memorandum with some cites from the WAC. He noted that licensees have continually come forward to staff with ideas, suggestions, and requests regarding promotions surrounding regulated activities. Representatives of the industry engage in many business practices that are designed to entice individuals to gamble, from advertising to promotions, from free food or discounted food for players to customer appreciation tournaments. Licensees continue to bring forward new ideas in schemes with this objective in mind. These initiatives are not new and the Commission has, over time, adopted rules to deal with such enticements to gamble. In some instances, such as advertising, the Commission has taken no position and has not exhibited a regulatory presence, while in others, such as gifts and extending credit, the Commission has.

**Mr. Berg** reminded the Commission that through its rulemaking authority, it has set a broad policy statement—WAC 230-12-050, which states that licensees may not extend credit, make a loan, grant a gift to any individual playing in an

authorized gambling activity, or that would allow a person to play in an authorized gambling activity. When the rule was first adopted it was absolute, but over time, certain exceptions have been granted to the rule. Currently, six exemptions exist: Free or discounted drink or merchandise to players is allowed as are card game promotions if the value does not exceed \$50 per person, such as the awarding of a baseball cap for any Blackjack between 6:00 p.m. and 7:00 p.m. Customer appreciation tournaments for card players are authorized and free card play for card room employees is authorized, as an example, to get Poker games started in card rooms. Promotional activities for Bingo players that include the limited use of discount coupons, promotional gifts, and frequent player incentives are allowed as are free or discounted food or nonalcoholic drinks to Bingo players.

**Mr. Berg** stated that requests are continuing to come in for various gambling promotions along with questions about intermixing promotional contests of chance, which are by statute not a gambling activity, and gambling promotions. In the study sessions, there have been specific proposals and ideas brought forth that would require further exceptions to this general prohibition. Some ideas have included frequent player points, the Ace card clipped out of the newspaper that is put down as half a Blackjack and Blackjacks during the happy hour time that allow the winner to be entered in a drawing for a prize. The question becomes, should the Commission continue to grant further exceptions to the general prohibition by rule on almost a case-by-case basis. Or, should the Commission modify the general prohibition and eliminate current exceptions, or should staff draft a new rule that draws a line regarding gambling promotions, and should policy positions be different for nonprofits, commercial stimulants and tribal gaming.

**Mr. Berg** pointed out that the licensee interests—commercial stimulant operators—have come to the staff and generally stated that they would like to see fewer restrictions in promoting their gambling activity, such as no dollar limit on the value of promotions, the ability to use frequent player incentive points for pull-tab and card game play, and using a second element of chance to determine additional prizes. He gave an example of every player receiving a Blackjack being entered into a drawing for an additional prize. Using promotional contests of chance to promote their gambling activities; for example, additional entries into a promotional contest of chance, would be awarded for each hour of card play or for obtaining a specific winning hand while retaining the alternate free method of entry. The commercial stimulant licensees would also like to restrict entry into drawings and to such activities as an hourly drawing for those currently seated at a card table, sometimes called a “hot seat.”

**Mr. Berg** reported that on the other hand, the nonprofit licensees would like to have the ability to award pull-tabs as a prize to a Bingo player. Bingo licensees may currently award gift certificates for Bingo cards as a prize. The executive management team of the agency, in consultation and working with the program managers, have reached a staff position on two points: 1) The direct opportunity to engage in additional gambling activities based on winning in the first gambling activity should not be allowed. An example of this is being awarded pull-tabs as a prize for winning in a Bingo game. 2) The staff position is that promotional contests of chance should not, because of regulatory difficulties, be combined with gambling promotions. With the passage of the new promotional contests of chance law, the agency has been presented with new challenges where licensees want to combine something that is a gambling activity with something that, by statute, is not a gambling activity.

**Mr. Berg** summarized the three or four policy issues that should be addressed: 1) Should the Gambling Commission allow the prize for a gambling promotion to be the opportunity to gamble? 2) Should the Gambling Commission allow gambling promotions and promotional contests of chance to be combined? 3) Should the Commission continue the general prohibition and continue to write exceptions to the rule in accordance with the policy decisions made here, or, should a more general rule be written? Stated otherwise, does the Commission have a regulatory interest in what prizes are given away from licensee promotions? 4) Should there be a different approach in regulatory policy towards nonprofits, commercial stimulants, and tribal casinos?

**Commissioner Ludwig** asked if he understood correctly that nonprofits are allowed to give as a prize a Bingo card. **Mr. Berg** responded that nonprofits are allowed to give a gift certificate that can be used to purchase Bingo cards. Commissioner Ludwig asked what the difference was philosophically between that and giving them pull-tabs? **Director Bishop** said the philosophical difference was that the consumer has choices; they can buy a hamburger with a gift certificate versus buying another Bingo card or pull-tab. Commissioner Ludwig asked if they could buy pull-tabs with that gift certificate, and Director Bishop affirmed adding that it is a cash substitute for any of the products that the organization carries.

**Commissioner Forrest** believed that what the legislators were thinking about primarily were the Safeway's and the McDonalds—places for large public transient visitors. In the context the Commission is dealing with it, most people are in a card room and are there to participate in some form of gambling activity. While at one time it was considered a stimulant, now they are making cheap food to stimulate the gambling instead of having gambling stimulate full-price food. Commissioner Forrest felt this was the legislative quid pro quo for allowing what is essentially a gambling game. He was not persuaded the Commission needed to sanction any additional drawings even if they are technically not gambling because there's no consideration and because nobody else can get the same opportunity. He thought it was not realistic to think that the legislative justification for sanctioning it in the first place is very applicable to the Commission's licensees. He questioned why the licensees needed this --business seems to be booming and he didn't feel an inclination to give additional enticements--the games seem to entice people by themselves. Commissioner Forrest complimented Mr. Berg and his staff, saying his presentation was a model of the kind of report that is helpful to the Commission. It gives background, lays out the options, and gives a sense of what they are being asked to do, and to evaluate this in light of the agency's mission to protect the public and all those good things. Commissioner Forrest asked if there were any arguments other than wanting to get more people in and get more gambling.

**Mr. Fleisher**, Deputy Director, agreed the purpose of the promotion is to get more customers in to buy whatever product in the promotion. The distinction between the promotions is when there's no contest involved. Some of the pull-tab operators give pull-tab winnings, which are paid double in a happy-hour promotion – they encourage people to come in. The promotional contest is getting an opportunity to enter a drawing or enter something where an element of chance is involved -- it's an entry into a contest. Promotions have limits. The rule currently prohibits giving any gifts to players; however, there are the exceptions and in card rooms, for example, there can be promotions up to \$50. In the Bingo hall, there are certain rules on what can be given in promotions. Mr. Fleisher affirmed Commissioner Forrest's point regarding an absolute prohibition because there's already enough enticement, and promotions aren't needed – or whether promotions should be up to the business who can give away as much as they want, or, if something in between where there are six different exceptions to the no-gift rule.

**Director Bishop** said the argument so far was that the exceptions allowed are *de minimis*. If one applied the purest interpretation of the rule, one could not give his customer a cup of coffee. And yet, other businesses routinely do it. He noted the frequent player concept was approved for the charities. He recalled a specific incident where a Bingo game was offering entertainment during the session. It hired professional entertainers, and there was a public outcry. As a result of rulemaking in that instance, it was negotiated that operators could provide entertainment, but not one specific type of entertainment, and the rule was codified. This rule has evolved over the years. Licensees are asking for two or three new promotions—the frequent player for the commercial establishments, pull-tabs as prizes at Bingo games only, and free Ace coupons for card room games. Director Bishop believed that some of the things the card rooms want to do, technically, are not authorized activities. They are lotteries that fall outside of those that have been specifically approved. He explained a drawing is a lottery and the only authorized drawings are those that are allowed for the promotional contest of chance and for raffles. He asked how fine a line the Commission wanted to draw. Director Bishop affirmed that it is causing staff a lot of time and it is an area where there are all sorts of different answers, which is why he felt it was time to revisit the issue.

**Commissioner Forrest** noted that the industry isn't suffering and he believed the brighter line they can have, the easier it would be on staff obviously. He felt the odds of Blackjack make it a game that is very appealing to people all over the world without any additional inducements. Allowing happy hour incentives or increasing the odds by giving a winner another opportunity seemed to modify the game. Commissioner Forrest indicated that his bottom line is an inclination toward the tight and bright line. He believed staff should consider this further and listen to a few more concrete examples of what really happens and why the licensee really wants the activity. He noted that gambling is not like every other business; it is a special business, therefore, and he believed that the fact that the rules are somewhat different or applied a little bit differently in the gambling context, as opposed to a Safeway or McDonald's, was perfectly understandable. He noted the Commission doesn't audit Safeway's check on their tills and so forth, and the Commission does audit and pursue quite carefully the way card rooms handle their money.

**Director Bishop** informed the Commissioners that historically, the Commission has stayed out of certain areas of promotions. He affirmed that advertising is a way of promoting products. He addressed another area that gets a little cloudy, but from his personal perspective should be authorized. When one changes the odds of the game, by increasing the prize pay-out during a certain period for everyone, that changes the game, but does not add a new element of chance.

For instance, Blackjack normally pays one and a half times the wager, so if a licensee advertises that between seven and eight o'clock, they're going to play two times the wager, that certainly is a promotion. It's involved in the gambling, but does not involve anything other than changing the odds of the game to get people to play. Director Bishop explained that he didn't have a problem with that promotion; however, as we enter into the bait and switch types of things—if you win this prize, I'll give you a chance to win another prize – changes the probabilities of the games and certainly is an issue.

**Chair Orr** supported the debate process. He added that one of his fears is that on a regular basis, every issue the Commission deals with ratchets each other up. Sometimes what one person struggles for becomes a prevailing right for the other, and he felt the Commission should guard against that. He said he was inclined to agree with Commissioner Forrest.

**Dolores Chiechi**, RGA, emphasized this is a complex issue. She said she was looking forward to working with staff to discuss the industry's perspective and to come forward with solid resolutions. She believed that the opportunity for staff and the industry to work together usually resulted in compromises that the Commissioners could consider. She affirmed the RGA would be requesting a meeting in the near future. **Commissioner Forrest** asked how significant this is to a card room—are the promotions going to increase the gross by 2 or 3 percent – would the amount be miniscule or substantive? Ms. Chiechi responded that she couldn't answer the general question because she doesn't work in the business. However, the enticements to get people to come into a facility is certainly something they would like to continue to be able to offer.

**Senator Prentice** responded that it appears the industry is trying to keep the game fresh and they are attempting to market something differently and affirmed that old ideas get stale. She encouraged coming back and taking a solid look at this issue and hearing more detailed information from the industry. **Ms. Chiechi** thought it would be helpful if some parameters were established.

**Commissioner Forrest** asked if someone could publish a coupon that someone cuts out of the paper that enables them to receive five \$1 chips at a given establishment. **Director Bishop** said it was his opinion that it is not legal—it's providing a gift that would allow someone to play at a gambling activity. Commissioner Forrest asked if it was legal for someone to advertise that if one visits a certain facility at such-and-such hour, they have a chance to win a door prize. Director Bishop responded that under the guidance of the promotional contest of chance, if everyone that walked in the door got a chance that would be an authorized activity because they would not be gambling.

**Mr. Fleisher**, Deputy Director, addressed the frequent player points—if one plays a certain amount of play they can get points based on the play and win prizes. Currently, that is allowed only in a limited way for Bingo and is not allowed in the other areas of gambling. He explained that although it is a promotion, it's a different kind of promotion because it exists over time. This is part of the policy question. **Director Bishop** affirmed player points are allowed in tribal casinos. This is because it's a regulation and it was not codified in the Compact. **Commissioner Ludwig** believed we were talking about business competition—he thought card rooms ought to be able to compete among that industry for business just like Burger King competes against McDonald's and vice versa. He expressed concern because there 60 card room licensees and in some areas, like LaCenter, Tukwila and SeaTac, they're pretty heavily concentrated. He emphasized there are only so many dollars available and the Bingo industry, the nonprofits and the charities are hurting year after year. He asked what the competition between the card rooms would do to the Bingo operation.

**Ric Newgard**, Seattle Jr. Hockey, appreciated Commissioner Ludwig's question and expressed his personal opinion, that like it or not, the non profits must deal with the real world. He believed they were here to stay. On the downside, since they are only open three days a week, they would like to see that open further; however, they will return with proposed legislation next session. **Commissioner Ludwig** noted the Commission is hearing from various nonprofit operators that they don't want more than three days a week – and that is a mixed message the Commission gets regularly. As a group, he wished the nonprofits would form one position. Mr. Newgard stressed his response is his personal view. He said that Senator Prentice hit the nail on the head regarding promotions. It's refreshing something that is done repeatedly to make it more exciting. He believed the promotions and/or gift ideas only benefited the public. Mr. Newgard felt that as long as the public reaps the rewards and came out on the better end of the deal, the job of protecting the public is being accomplished. He didn't see enticement as being a real problem. He advised that it's hard to spice up Bingo. He'd like to see more spice and hoped a working party could be established to discuss these issues. He thought that if this is a large policy question it's also an opportunity to take a look at the whole issue.

**Clyde Block**, Sno King Hockey, believed there is a distinction between the nonprofits and commercial operators. The nonprofits have (and rightfully so) a requirement that they must return a certain percentage of profit to the organization for which they are running. He felt if nonprofits run any type of a promotion, that factor must be taken into consideration because it's going to affect their profit either up or down. He also emphasized that nothing exists very long without promotion. The industry must advertise/promote to keep the business active. Mr. Block addressed the logic behind pull-tabs as prizes. He explained that if he gives out a gift certificate for \$10 as a Bingo prize and the player redeems the prize at the Bingo line, it has really cost the operator \$10 in revenue. However, if the player redeems the \$10 certificate in the deli, his food costs run 60 percent, so the certificate only cost him \$6. If the player redeems in pull-tabs, his payout percentage in pull-tabs runs 70 percent and the \$10 prize only cost \$7. The bottom line is that there is a significant difference for nonprofits simply because they have the requirement that they must return a certain percentage.

**Steve Strand**, Big Brothers and Sisters of King/Pierce Counties, noted that through the last Bingo Task Force, the new requirements were maintained or reiterated for charitable/nonprofits in the terms of the required net return. Although those have been made slightly easier to achieve through recognizing the change in the market, the penalty phase for noncompliance has been sharper and swifter. Mr. Strand believed that promotions are used either to develop new customers or to cultivate existing ones and to maintain their loyalty. Regarding gambling as a prize to gambling—the second element of chance has been in existence for many years. He believed the main concern is that if someone offers a pull-tab as a Bingo prize, the general context, and what is being asked for and developed is a “good neighbor prize.” This is where the customer wins the prize generally offered in addition to those that are tacked on. The gambling is not the sole prize; it is in addition to the cash prize that is advertised. Mr. Strand offered as an example that if they are advertising the \$100 prize when it's really a hundred dollars worth of pull-tabs, the pull-tabs have a chance of winning alternative prizes—these are in addition to a cash prize advertised. Therefore, the gambling as a prize for gambling is a much larger generalization of these items. Mr. Strand supported the other statements in referencing the need for promotions. He noted that staff and the industry went through this discussion in regards to bar stool Bingo as a promotional contest of chance and its encroachment on an activity delegated for charitable/nonprofits only. He affirmed that he does have concerns on the other end of the spectrum regarding what might be opened up, and what might have a significant impact on charitable/nonprofits current means of generating funds.

**Commissioner Forrest** asked if it was fair to say that as things now operate, promotions are a significant factor in producing gross income. **Mr. Strand** affirmed, emphasizing they are trying to get customers in the door—cultivate new customers primarily in Bingo. They are trying to focus on retention or reducing the loss of their customer base. With the pull-tabs specifically, they are trying to cultivate an existing customer, to try another existing product available within the facility. He explained it's not a new product; it's just giving someone the opportunity to try something new. Whether they like or not is up to them to choose, but at least it takes away the fear or the stigma of going through the point of sale purchase.

**Don Kaufman**, Big Brothers and Sisters of Spokane, stated that the whole issue of promotions is one that is dependent on their survival and their ability to create new players and new players within the facilities. He said there is a very small percentage of their Bingo players that play pull-tabs on a regular basis—about 40 percent of their customers. When a casino opens in an area, the nonprofits are seeing a loss of income in the pull-tab area because there's a huge crossover between pull-tab players and machine players. He explained his buys are off \$2 a head this year for the first six months, and it's the first drop they've seen in pull-tab buys in the last six years. The question is how do they create pull-tab players within their facility—and what do they have to do to do that? The whole concept of a good neighbor game is that it is an add-on prize, and the nonprofits want to enhance the prize by giving a little add-on prize. Now when a customer has \$5 worth of pull-tabs and pops them open, if the player wins a couple of bucks, the player goes to the counter and either takes his money or he turns them in for more pull-tabs. That promotion has exposed the player to that gambling and given the person a chance to understand that pull-tabs aren't very threatening, and that they're fun. That's really all the nonprofits are asking for -- a chance to enhance their promotions and expose customers to new opportunities. They are not saying they are going to give somebody \$100 worth of pull-tabs instead of \$100 worth of cash. The marketplace is going to tell them whether this is a good promotion or not. Mr. Kaufman believed the customer base and the public are going to help dictate what works and what doesn't work. However, to lose the opportunity is frustrating. He provided the Commissioners with his first and second quarter attendance figures for the year 2000 and 2001 in his Bingo hall. The numbers showed a decline in attendance and he said things were getting really tough. Mr. Kaufman asked the Commission not to take the promotions away because they are needed.

## RULE UP FOR FINAL ACTION

### 3. Petition for rule Change by Richard Walker and Daniel Blagovich:

#### WAC 230-04-202:

**Ms. Patjens** reported that staff would ask this be held over until next month. Staff will put together the reduced fee for the limited fund raising events which is what the two petitioners have asked for, and then also present a proposed alternative to reduce the fees for the regular fundraising events. This would be wrapped up in one package.

**Commissioner Forrest** asked why wouldn't it be a good idea to settle the issue right now. He didn't think they should have something that's costing the agency money. Staff's alternative would cover their costs, and the proposed rule would mean that they wouldn't. **Ms. Patjens** affirmed. Commissioner Forrest said he didn't favor a fee that doesn't cover our costs. He believed it would simplify things if they combined the two, if the issue was cleared away today, then staff would know they should use staff's alternative if the Commission decides that's the policy they want to follow.

**Ms. Patjens** concurred and noted that staff was looking at the ease in letting licensees know what the fees were so that they weren't getting one fee schedule one month and then three months later getting another. Commissioner Forrest suggested they leave it all in one package and asked that when staff prepares the package, use alternative one, not the original proposal. The other Commissioners agreed that was a good idea.

## RULES UP FOR DISCUSSION

### 4. Card Room Promotions:

#### WAC 230--40-897:

**Cally Cass-Healy** reported that staff would ask that the Commission let this rule die next month in light of their policy discussions. Staff will come forward with a new rule draft when they determine what the policy will be. **Commissioner Forrest** commented that when staff has a new rule or idea, he would like to receive a brief summary of the pros and cons and an explanation, as well as an explanation of the alternative and their impacts. This would help the Commissioners know what staff has resolved, tending the view staff reconciled, and what they are recommending.

**Commissioner Ludwig** asked why this is handled separately under Item #4. He believed it ran hand-in-glove with Item #2, gambling promotions and promotional contests. **Ms. Cass-Healy** explained that it was because this rule has been on the agenda for quite some time. It was originally with the card room package and staff has been holding it over, given the issues. **Director Bishop** noted that the staff report Mr. Berg presented today was a part of the evolution of this rule being on the agenda for four or five months. There was no further discussion on this rule.

### 5. Licensed Raffles:

#### WAC 230-20-325 and 230-20-334:

**Amy Patjens** said these rule are up for discussion and possible filing. Right now a nonprofit organization can offer raffles using a discount scheme. For example, a nonprofit could sell a raffle ticket for \$5, or they could sell three tickets for \$10 instead. They can also use what are called alternative methods of drawing rather than traditional methods when using a raffle. In a traditional drawing, all of the tickets are placed in some type of container, and a ticket is drawn out. There are other raffles that use an alternative method of drawing such as duck dashes. It's still a raffle, but the way that you choose the winner deals with crossing a line versus pulling a number out. Right now, if a nonprofit organization wants to do either of these things—the discount scheme or an alternative method of drawing, they have to get advanced approval from staff. This becomes cumbersome, especially if next year, the duck race is exactly like it was the year before, which is often the case. Staff is proposing that if a licensee wants to use the identical discount scheme or identical method of drawing they used the previous year, they could do that without having to get another approval from staff. That would only change if staff actually rescinded the past approval, or if Commission rules changed. If the Commission would decide for some reason they are not going to allow any discount schemes at all, then that would automatically rescind any past approvals. **Ms. Patjens** noted the other changes in the rules are housekeeping changes. Some sections were rewritten and headers were added to make them clearer. Staff recommends filing for further discussion.



Commissioner Ludwig made a motion seconded by Commissioner Forrest to file the rule for further discussion. Vote taken; motion passed unanimously.

Commissioner McLaughlin said they still have to get a license, though, for the duck dash. Ms. Patjens affirmed that if they are going to use an alternative method for drawing, they do need to have a license. To conduct an unlicensed raffle, the licensee must stay under the \$5,000 threshold amount. However, if they use any type of alternative things, they have to get a license. The reason is that staff needs to pay more attention to them.

**6. Re-Opening a House-Banked Card Room After Closure:**

**WAC 230-40-801 and WAC 230-04-207:**

**Cally Cass-Healy** said this rule proposal sets forth the requirements a licensee must follow to reopen their house-banked card room after temporary closure. This simply codifies the practices that staff have been using based upon a couple of situations that have occurred where there have been temporary closures. It will require that if an establishment is closed for more than seven days, the operator must inform Commission staff why they are closing and their anticipated reopening date. If the closure exceeds 60 days, the licensee will notify staff of any changes. When they feel they're ready to open, then the card room staff must undergo a preoperational review. Staff feels this is the most critical part of the rule. There were no questions.

Commissioner Ludwig made a motion seconded by Commissioner McLaughlin to file the rule. There was no discussion. Vote taken; Motion passed unanimously.

**Ms. Cass-Healy** said Item #6B is **WAC 230-04-207** which simply codifies the requirements that a licensee must have a preoperational review prior to opening a house-banked card room. **Commissioner Ludwig** asked if she meant after being closed. Ms. Cass-Healy clarified this codifies the fact that they must have one in the first place.

Commissioner Ludwig made a motion seconded by Commissioner McLaughlin to file the rule. Vote taken; Motion passed unanimously.

**7. Other Business/General Discussion/ Comments from the Public:**

**Senator Prentice** made an announcement that the legislature's workshop on gambling will be held on August 22, 2001 in LaCenter or Vancouver. The agendas will go out on Monday and she hoped people would come because the legislators really want to have a full discussion on gambling issues. They plan to discuss some of the things that are discussed in Commission meetings, and also things in relationship to the other forms of gambling in this state because they fit together. Senator Prentice noted that in the public's mind all we are doing is expanding gambling and some of the thinking and rationale needs to be better understood.

**Chair Orr** called Director Bishop forward and in honor of this being his last Commission Meeting, presented him with a retirement plaque that read as follows: "Presented to the Executive Director, Ben Bishop, in appreciation for over 20 years of dedicated service to the Washington State Gambling Commission (February 2, 1981 to September 1, 2001.) You have served this Commission well with your thoughtful and practical approach in managing the responsibilities of this agency. Your integrity and experience will be deeply missed. Congratulations." Presented by George Orr, Liz McLaughlin, Curt Ludwig, Marshall Forrest, and Alan Parker.

Director Bishop received a round of applause. **Chair Orr** also presented a boxed pen set. **Director Bishop** expressed his appreciation and received another round of applause. **Director Bishop** said this was both a happy and a sad time for him. He said he has had great bosses, great staff and cooperative people to work with. He philosophized that sometimes a person reaches their limit and that he had reached his limit. He felt that staff and the issues were outgrowing him and that it was time for a new perspective. He reflected that while the cliché said you can't teach an old dog new tricks, over the last 18 months he felt he had learned some. He also learned that there are certain limitations in life and he believed that he needed to expand in other areas. He deeply thanked everyone. **Chair Orr** again thanked Director for his many years of dedicated service to the agency. Chair Orr called for general comments.

**Gary Hanson**, of the Washington State Council on Problem Gambling, reminded the audience that the Council had hosted the National Council on Problem Gambling's Fifteenth Annual Conference in June. He noted the working

industry in this state was very helpful in organizing this event. He noted that many of the working industry group helped fund the conference. Platinum sponsors include the Washington Lottery, and the Tulalip and Muckleshoot Tribes. Golden Eagle sponsors include the Recreational Gaming Association and the Lucky Eagle Casino in Chehalis. Copper River sponsors include Big Brothers Bingo of Seattle, Emerald Downs and P.J. Pockets. The industry group received an award from the National Council on Problem Gambling for working on the conference and because of the policies and the recently produced video. This is the first national award for the state of Washington. Deaconess Medical Center in Spokane also won an award for the treatment work they're doing. Mr. Hanson thanked Director Bishop for all his help over the years, noting his support and that of his staff has led to even more support.

**8. Adjournment**

With no further business, **Chair Orr** adjourned the meeting at 10.45 a.m. and announced the next meeting would take place in Ocean Shores on Wednesday, September 12<sup>th</sup> and Thursday September 13<sup>th</sup>. He made a note that the meeting dates have changed from Thursdays and Fridays to Wednesdays and Thursdays.

Minutes submitted to the Commission for approval by:

Shirley Corbett  
Executive Assistant